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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/058,381 | 01/30/2002 | Jutta Habermann | 218816US6 | 5863 |

22850 7590 11/17/2003

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

BROWN, PETER R

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
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3636

DATE MAILED: 11/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/058,381

Applicant(s)

HABERMANN ET AL.

Examiner

Peter R. Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Claims 2,3 and 6-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, the term "rivet" or "fastening device" would be more appropriate than "clamp".

In claim 3, the term "Teflon" is a registered trademark and inappropriate for claim language.

In claim 6, the phrase "interrupted outline" is confusing and unclear, and the structure thereof should be more clearly set forth.

In claim 7, it is not clear how the seat plate is "configured to be fastened", nor to what element the plate is fastened. Moreover, the "fastening domes" have not been sufficiently defined.

In claim 8, the "graduated arresting" has not been sufficiently defined in terms of the interaction of the seat plate with the "arresting button".

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,4 and 8, so far as definite, are rejected under 35 U.S.C. 102(b) as being anticipated by Ambasz ('785).

Figures 3,4 and 35 show structure as claimed, including a flexible seat plate 28 that is slidably supported by support plate 22. Note that in figure 3 a seat trough is shown. The support plate forms guide rails 334 (fig. 35) which are slidably engaged by guide "ribs" 332 on the seat plate. A device in the form of a sliding layer or "foil" 56 is applied to the seat plate to enhance sliding movement. Downward protrusion 74 may be considered an arresting button which, with the spring 64, provides a graduated arresting of the seat plate.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2,3,5,6 and 9, so far as definite, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ambasz ('785).

The layer 56 is in the form of a foil, formed of a material with a low coefficient of friction to enhance sliding (col. 5, lines 20-22). Whether the layer is applied by adhesive or another fastening device is considered a matter of design choice, as is the type of material utilized for both the foil and the seat plate (claim 6).

While Ambasz shows a continuous "rib", to have formed instead a plurality of spaced "ribs", would have been well within the level of skill in the art.

In regards to claim 9, the extent of the sliding movement of the seat is considered a matter of design choice.

Claim 7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Applicant's arguments filed Sept. 4, 2003 have been fully considered but they are not persuasive.

Contrary to applicant's arguments, the reference to Ambasz does indeed show the structural limitations as set forth in the claims. For examination purposes, the guide frame 22 has been construed by the examiner to be the "support plate", with bearing surfaces 56 located between the support plate and the ductile seat plate 46,47. As shown in figures 3 and 35, there are "guide rails" 334 provided on the support plate, and "guide ribs" 332 provided on the seat plate.

Note that while the applicant argues that his foil is located over the entire area between the parts of the seat, there is no limitation in the claim directed to this feature.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

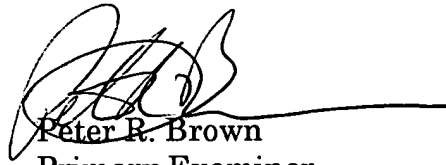
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory

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action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter R. Brown whose telephone number is 703-308-2103.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Peter R. Brown
Primary Examiner
Art Unit 3636

prb
November 13, 2003